DSS

Mon., Feb. 4th 2013

Pg 1 of 22

Donald Simmons - Probation Officer
United States Probation Office
83 Broad ST.
Charleston, S.C. 29402

Re: The ongoing complicity or enabling of an ongoing conspiracy to oppress constitutionally protected civil Liberties to Facilitate an ongoing conspiracy of Malicious Prosecution.

2:02cr181

Dear Mr. Simmons,

As I explained to you on Mon., Jan 7th 2013 and Today Mon., Feb. 4th 2013, I shall be Filing a number of Challenges of the ongoing complicity or enabling of an ongoing conspiracy to oppress civil liberties on Mon., March 18th 2013 and as presented in USA v. Butler, 297 US 1, Pg 2 of 22 of this petition. As this Petition shall show, you and all who read this are bound by Oath and the Supreme Law of the Land to defend the integrity of the constitution and not avail yourself to the fruits of this conspiracy without a Full and Fair Redress of these grievences. Pg 3 of 22.

I Hereby Petition you Mr Donald Simmons, as a representative under Oath of the Department of Justice, and all who read this Petition, to Honor your Oath and Duty to defend the U.S. Constitution by demanding a Full and Fair Redress on the record

Pg 2 of 22

UNITED STATES OF AMERICA, Petitioner,

vs.

WILLIAM M. BUTLER et al., Receivers of Hoosac Mills Corporation.

[80 L Ed 477] (297 US 1-88.)

[No. 401.]

Argued December 9 and 10, 1935. Decided January 6, 1936.

[6][7]There should be no misunderstanding as to the function of this court in such a case. It is sometimes said that the court assumes a power to overrule or control the action of the people's representatives. This is a misconception. The Constitution is the supreme law of the land ordained and established by the people. All legislation must conform to the principles it lays down. When an act of Congress is appropriately challenged in the courts as not conforming to the constitutional mandate the judicial branch of the Government has only one duty, -to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former. All the court does, or can do, is to announce <***pg. 487**> its considered judgment upon the question.

[297 US 63]

The only power it has, if such it may be called, is the power of judgment. This court neither approves nor condemns any legislative policy. Its delicate and difficult office is to ascertain and declare whether the legislation is in accordance with, or in contravention of, the provisions of the Constitution; and, having done that, its duty ends.[9]

[8]The question is not what power the federal Government ought to have but what powers in fact have been given by the people. It hardly seems necessary to reiterate that ours is a dual form of government; that in every state there are two governments, -the state and the United States. Each State has all governmental powers save such as the people, by their Constitution, have conferred upon the United States, denied to the States, or reserved to themselves. The federal union is a government of delegated powers. It has only such as are expressly conferred upon it and such as are reasonably to be implied from those granted. In this respect we differ radically from nations where all legislative power, without restriction or limitation, is vested in a parliament or other legislative body subject to no restrictions except the discretion of its members.

The Constitution is the Supreme Law of the Land
Court has duty to pass judgment on challenged
Statute.

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CONSTITUTION OF THE UNITED STATES

ARTICLE VI. MISCELLANEOUS PROVISIONS

Clause 2. Supreme law.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Clause 3. Oath of office

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

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5 USC § 3331. Oath of office

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." This section does not affect other oaths required by law.

(Sept. 6, 1966, P. L. 89-554, § 1, 80 Stat. 424.)

28 USC § 453. Oaths of justices and judges

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, ---, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as --- under the Constitution and laws of the United States. So help me God."

(June 25, 1948, ch 646, 62 Stat. 907; Dec. 1, 1990, P. L. 101-650, Title IV, Subtitle I, § 404, 104 Stat. 5124.)

Federal courts cannot countenance deliberate violations of basic constitutional rights. To do so would violate their judicial oath to uphold the U.S. Const. 28 U.S.C.S. § 453 (1976).

of all challenges to be filed on Mon., March 18th 2013 before you Unconstitutionally avail yourself to the Fruits of a conspiracy of Malicious Prosecution. Olmstead V. U.S., 277 US 438, Pg 7 of 22.

The Olmstead supra @ 485 states, "Decency, security, and Liberty alike demand that government officials shall be subject to the same rules of conduct that are commanded of the citizens." Pg 8 of 22.

The rule of conduct commanded on the citizens concerning a conspiracy can be found in Jones vs. City of Chicago, 856 F.2d. 985, Pg 9 of 22.

"To be liable as a conspirator you must be a voluntary participant in a common venture, although you need not have agreed on the details of the conspiratorial scheme or even know who the other conspirators are. It is enough if you understand the general objectives of the scheme, accept them, and agree, either explicitly or implicitly, to do your part to further them."

There are two main ongoing conspiracies that I am grieving and hereby give you notice of in this petition.

The First one started on or before my arrest in Feb. 2002. FBI Agent Cynthia McLaurin contacted Det. William Crews and Conspired to cover up that Victom A, Andrea Cised, was and is my wife, and was 20 years, 1 month, 16 days old on June 25th 1999, the day she brought her friends over and ask to use

Government, [that is your branch], has only one duty, - to lay the article of the constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former. All the court does, or can do, is announce its considered judgment upon the question." That is all I have ask the court's to do for years to end this ongoing conspiracy. All I am asking of you and all of your superiors to do is Honor your Oath to God and Country to defend the constitution and NOT Avail yourself, or the Department of Justice, to the unlawful fruits of this conspiracy by demanding I submit to any part of probation or registration until I am given my First Amendment right to redress of this challenge.

I will take it even further. Marbury V. Madison, 5 US 137, Pg 12 of 22, states, "that a Law, repugnant of the constitution is Void; and that courts, as well as other departments, [that is you!] are bound by that instrument."

Pollock V Farmers' Loan and Trust Co., 157 US 429, Pg 13 of 22. "Since the opinion in Marbury V Madison... it is within ~~jurisdict~~ judicial competency, ... to determine whether a given Law of the United States is or is not made in pursuance of the constitution, and hold it Valid or Void accordingly. ... but the duty to do so, in a proper case, cannot be declined."

Carter V. Carter Coal Co., 298 U.S. 238, Pg 14 of 22. "but their opinion, or the courts opinion, that the

the camera to make her tapes. I can prove I am not guilty of any crime. All my State charges which were related to Federal Charges were Vacated in 2004 and I still can not get the truth on the record.

Pg. 10 of 22 is an article sent to me where Det. William Crews who conspired to commit perjury in 2002 to get all my warrents had been commiting sex crimes against minors since 2000, Two years before my arrest. Andy Savage is my Lawyer the court gave me when I proved in court Ann Walsh was withholding evidence and witnesses that would prove the truth. Pg 11 of 22. After Andy Savage refused to help my prove Crews and FBI Mc Cants conspired to present perjured testonoey to get the warrents, He represents Crews on child sex charges. When your Lawyers conspire against you, you don't stand a chance!

Enough of this. The Number one issue is the ongoing complicity or enabling of an ongoing conspiracy to oppress the ~~Constitution~~ commanded protection of the Right to petition in the First Amendment that has been used to Facilitate the ongoing conspiracy of Molicious Prosecution.

Please reread the Butler supra on Pg 2 of 22. IT is clear that once I make this challenge in the courts, the Department of Justice," the judicial branch of the

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72 LED 944, 277 US 438 OLMSTEAD v. UNITED STATES.

ROY OLMSTEAD, Jerry L. Finch, Clarence G. Healy, Cliff Maurice, Tom Nakagawa, Edward Engdahl, Myer Berg, John Earl, and Francis Richard Brown, Petitioners,

vs.

UNITED STATES OF AMERICA. (No. 493.)

CHARLES S. GREEN, Emory A. Kern, Z. J. Hendrick, Edward Erickson, William P. Smith, David Trotsky, Louis O. Gilliam, Clyde Thompson, and B. G. Ward, Petitioners,

vs.

UNITED STATES OF AMERICA. (No. 532.)

EDWARD H. McINNIS, Petitioner,

vs.

UNITED STATES OF AMERICA. (No. 533.)

[72 L Ed 944] (See S. C. Reporter's ed. 438-488.)

[Nos. 493, 532, and 533.]

Argued February 20 and 21, 1928. Decided June 4, 1928.

When these unlawful acts were committed, they were crimes only of the officers individually. The government was innocent, in legal contemplation; for no federal official is authorized to commit a crime on its behalf. When the government, having full knowledge, sought, through the Department of Justice, to avail itself of the fruits of these acts in order to accomplish its own ends, it assumed moral responsibility for the officers' crimes. Compare The Habana (United States v. The Habana) 189 U. S. 453, 465, 47 L. ed. 901, 903, 23 Sup. Ct. Rep. 593; O'Reilly de Camara v. Brooke, 209 U. S. 45, 52, 52 L. ed. 676, 678, 28 Sup. Ct. Rep. 439; Dodge v. United States, 272 U. S. 530, 532, 71 L. ed. 392, 393, 47 Sup. Ct. Rep. 191; Gambino v. United States, 275 U. S. 310, ante, 293, 52 A.L.R. 1381, 48 Sup. Ct. Rep. 137. And if this court should permit the government, by means of its officers' crimes to effect its purpose of punishing the defendants, there would seem to be present <*pg. 959> all the elements of a ratification. If so, the government itself would become a lawbreaker.

Will this court, by sustaining the judgment below, sanction such conduct on the part of the Executive? The governing principle has long been settled. It is that a court will not redress a wrong when he who invokes its aid has unclean hands.[16] The maxim of unclean hands comes

[277 US 484]

from courts of equity.[17] But the principle prevails also in courts of law. Its common application is in civil actions between private parties. Where the government is the actor, the reasons for applying it are even more persuasive. Where the remedies invoked are those of the criminal law, the reasons are compelling.[18]

The door of a court is not barred because the plaintiff has committed a crime. The confirmed criminal is as much entitled to redress as his most virtuous fellow citizen; no record of crime, however long, makes one an outlaw. The court's aid is denied only when he who seeks it has violated the law in connection with the very transaction as to which he seeks legal redress.[19] Then aid is denied despite the defendant's wrong. It is denied in order to maintain respect for law; in order to promote confidence in the administration of justice; in order to preserve the judicial process from contamination. The rule is one, not of action, but of inaction. It is sometimes

[277 US 485]

spoken of as a rule of substantive law. But it extends to matters of procedure as well.[20] A defense may be waived. It is waived when not pleaded. But the objection that the plaintiff comes with unclean hands will be taken by the court itself.[21] It will be taken despite the wish to the contrary of all the parties to the litigation. The court protects itself.

Decency, security, and liberty alike demand <*pg. 960> that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent, teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means - to declare that the government may commit crimes in order to secure the conviction of a private criminal - would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face.

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GEORGE JONES, Plaintiff-Appellee, Cross-Appellant, v. CITY OF CHICAGO, et al., Defendants-Appellants, Cross-Appellees
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT
856 F.2d 985; 1988 U.S. App. LEXIS 12816
Nos. 87-2536, 88-1127
May 27, 1988, Argued
September 14, 1988, Decided

The defendants do, however, argue that George Jones failed to prove a conspiracy. Conspiracy is a more familiar doctrine in criminal than in civil cases, except under statutes such as the Sherman Act and RICO that provide both criminal and civil sanctions for the same conspiracies. In a tort case such as this (a section 1983 constitutional-tort case is still a tort case, and Jones's pendent claims charge garden-variety common law torts), the function of conspiracy doctrine is merely to yoke particular individuals to the specific torts charged in the complaint. The requirements for establishing participation in a conspiracy are the same, however, as in a case (criminal or civil) in which conspiracy is a substantive wrong. See *Hartford Accident & Indemnity Co. v. Sullivan*, 846 F.2d 377, 383 (7th Cir. 1988).

To be liable as a conspirator you must be a voluntary participant in a common venture, although you need not have agreed on the details of the conspiratorial scheme or even know who the other conspirators are. It is enough if you understand the general objectives of the scheme, accept them, and agree, either explicitly or implicitly, to do your part to further them. See, e.g., *id.* at 383-85; *Bell v. City of Milwaukee*, 746 F.2d 1205, 1255 (7th Cir. 1984); *United States v. Andolschek*, 142 F.2d 503, 507 (2d Cir. 1944) (L. Hand, J.). Beyond this, attempts at definition will not help.

Detective William Crews was the investigating officer and the Prosecuting officer in Theodore Wagner's Case.

(13.)

Theodore Wagner V. William Crews, et. al.

C/A NO. 6:05-1100

Includes 1st amendment argument

sex-crimes officer charged with 3 counts of indecent exposure

investigator with
' Sheriff's Office
himself to three
d neighborhood
s.

t Division agents
ner Sgt. William
unts of indecent
ised Crews on a
izance bond.
tors Crews would
e second-floor
is Clark Sound

Crews

Circle home. They said he would raise the blinds, rap on the window or wave an object to gain his victims' attention, then expose himself while making lewd gestures, according to arrest affidavits.

The charges stem from incidents that reportedly occurred between 2000 and this year, affidavits stated. The incidents involve three victims, SLED spokeswoman Bobbi Schlatterer said.

Schlatterer declined to comment further, citing the ongoing investigation.

The allegations surfaced April 7 when one of Crews' neighbors filed a report with the Sheriff's Office accusing him of periodically exposing himself to her 20-year-old daughter for nearly a year. The Sheriff's Office notified SLED of the allegations that same day, said Sheriff's Capt. John Clark.

Crews was fired from the Sheriff's Office on April 20 after an internal-affairs investigation, Clark said.

Andy Savage, Crews' lawyer, declined to comment on the charges, saying he and his client had not yet had an opportunity to review the allegations in detail.

"He always enjoyed an excellent reputation in both the legal and the law enforcement communities," Savage said.

Crews, a married father of three, won't try to get his job back, as he had been planning to make a career change anyway, Savage said. He declined to say more about those plans.

Crews first worked for the Sheriff's Office between March 1989 and December 1990. He returned as a deputy in July 1996 and had worked there ever since, earning a promotion to sergeant two years ago, Clark said.

Before his termination, Crews worked as a supervisor of school resource offi
cers and community service operations Clark said.

Crews had previously worked as a de
tective and was involved in several high
profile cases, including investigations o
sex crimes.

In 2002 he investigated an amateur por
nographer who produced a video of mi
nors having sex at a James Island home.

That same year, Crews arrested a 61
year-old man accused of molesting a gir
while babysitting her in Ladson.

Reach **Glenn Smith** at 937-5556 or gsmith@postandcourier.com.

2000 Andy Savage was my lawyer who refused to speak about or present evidence of the McLeod-Crews conspiracy.

2006

While conspiring with other law inforcement officers to cover up felony crimes, cover up the Truth ~~and~~ of Wagner's innocence and acountablity, and feeding false evedence and stigma to the press, Det. Crews was commiting sex crimes at home. (Evedence has been presented to Courts and ignored

MS. WALSH: I did think quite a bit about that, and on one or two other occasions I have done a similar thing and also thought quite a bit about it.

And I looked at this as being work product, attorney work product, and that I had the right to exercise control over it. Umm, I --

THE COURT: Well --

MS. WALSH: I chose to protect this person who came to me as a witness; was a young person who I also felt, in a way, that I was protecting from Mr. Wagner, if that makes any sense, as well. Lier! She came For Me!

THE COURT: Well, if it creates a conflict, it certainly does.

MS. WALSH: Well, I don't think it created a conflict, but she came to me in trust and I felt that --

THE COURT: Well, I understand, and I understand it's a problem. I'm not sure that -- I think there's probably a question as to whom you owe the allegiance, and also whether it's work product; once you've disclosed it to him, whether it's entitled to any type of --

I dump out on the table, Warrent, Transcript, and other Statements recon about Dec 16, 20

MS. WALSH: Well, it turns out, actually, that somehow Mr. Wagner has a copy of the transcript, although I don't specifically recall giving it to him, nor did he tell me -- he just told me that I did not give it to him. So apparently he's got a copy.

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2 LED 60, 1 CRANCH 137 Marbury v. Madison.

WILLIAM MARBURY

vs.

JAMES MADISON, Secretary of State of the United States.

5 US 137 **2 L Ed 60** (1803)

From these, and many other selections which might be made, it is apparent, that the framers of the constitution

[1 Cranch 180]

contemplated that instrument as a rule for the government of courts, as well as of the legislature.

Why otherwise does it direct the judges to take an oath to support it? This oath certainly applies in an especial manner, to their conduct in their official character. How immoral to impose it on them, if they were to be used as the instruments, and the knowing instruments, for violating what they swear to support!

The oath of office, too, imposed by the legislature, is completely demonstrative of the legislative opinion on this subject. It is in these words: "I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as, according to the best of my abilities and understanding agreeably to the constitution and laws of the United States."

Why does a judge swear to discharge his duties agreeably to the constitution of the United States, if that constitution forms no rule for his government? if it is closed upon him, and cannot be inspected by him?

If such be the real state of things, this is worse than solemn mockery. To prescribe, or to take this oath, becomes equally a crime.

It is also not entirely unworthy of observation, that in declaring what shall be the supreme law of the land, the constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the constitution, have that rank.

Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument.

39 LED 759, 157 US 429 Pollock v. Farmers' Loan & Trust Co.

CHARLES POLLOCK, Appt.,

vs.

THE FARMERS' LOAN & TRUST COMPANY et al.

[39 L Ed 759] (See S. C. Reporter's ed. 429-654.)

[No. 893.]

Argued March 7, 8, 11, 12, 13, 1895. Decided April 8, 1895.

Since the opinion in Marbury v. Madison, 5 U. S. 1 Cranch, 137, 177 [2: 60, 73], was delivered, it has not been doubted that it is within judicial competency, by express provisions of the Constitution or by necessary inference and implication, to determine whether a given law of the United States is or is not made in pursuance of the Constitution, and to hold it valid or void accordingly. "If," said Chief Justice Marshall, "both the law and the Constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the Constitution; or conformably to the Constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty." And the Chief Justice added that the doctrine "that courts must close their eyes on the Constitution, and see only the law," "would subvert the very foundation of all written constitutions." Necessarily the power to declare a law unconstitutional is always exercised with reluctance; **but the duty to do so**, in a proper case, cannot be declined, and must be discharged in accordance with the deliberate judgment of the tribunal in which the validity of the enactment is directly drawn in question.

[157 US 555]

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80 LED 1160, 298 US 238 CARTER v. CARTER COAL CO.

JAMES WALTER CARTER, Petitioner,

vs.

CARTER COAL COMPANY, George L. Carter, as Vice President and a Director of Said Company, et al. (No. 636.)

[80 L Ed 1160] (298 US 238-341.)

[Nos. 636, 651, 649, and 650.]

Argued and submitted March 12, 1936. Decided May 18, 1936.

[14][15]And the Constitution itself is in every real sense a law-the lawmakers being the people themselves, in whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess. The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible. "We the People of the United States," it says, "do ordain and establish this Constitution. . . ." Ordain and establish! These are definite words of enactment, and without more would stamp what follows with the dignity and character of law. The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly-"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; . . . shall be the supreme Law of the Land; . . ." The supremacy of the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for adjudication, must apply the supreme law and reject the inferior statute

[298 US 297]

whenever the two conflict. In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, Adkins v. Children's Hospital, 261 U. S. 525, 544, 67 L. ed. 785, 790, 43 S. Ct. 394, 24 A.L.R. 1238; but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. A. L. A. Schechter Poultry Corp. v. United States, 295 U. S. 495, 549, 550, 79 L. ed. 1570, 1590, 1591, 55 S. Ct. 837, 97 A.L.R. 947.

statute will prove greatly benificial is wholly irrelivant to the inquiry."

I now ask you to take the mandate I invoke, and all the statutes I have challenged, and decide whether the latter squares with the former just as the Butler supra states.

I invoke this Constitutional mandate of the First Amendment

"'Congress shall make NO LAW respecting'...
the Right of the People peaceably...
to petition the government for a Redress of grievences."

See Right to Petition, Cartoons Vs. Major League Baseball Players Association, 208 F.3d. 885, Pg 17 of 22.
And First Amendment broken down Pg 18 of 22.

I now challenge Statutes and Acts of Congress in the form of a Question.

Question: Is the Federal Torts Claim Act (FTCA), a Law made by Congress respecting the Right of the People peaceably to petition the government for a Redress of grievences?

The answer of Yes or NO is descretionary. But it is a purely ministeral Duty to answer the Question.

The next Question is; Is the FTCA a Law that is repugnant of the "Congress shall make NO Law respecting"

command of the First Amendment mandate I invoked and Void ?

To prove the ongoing complicity or enabling of an ongoing conspiracy to oppress this First Amendment mandate and many other Constitutional Rights I have for almost a decade presented questions like this one I shall refile on Mon., March 18th 2013. The court uses Sophistry and misfeasance to enable and Facilitate this ongoing conspiracy to avail itself of these acts in order to accomplish its own ends.

Question: Is the 28 USC § 2255 and the 28 USC § 2241, that are principal provisions of an Act of the Seventy - Ninth Congress, H.R. 4233, June 25th 1948, Ch. 646 - Laws made by Congress respecting the Right of the People peaceably to petition the government for a Redress of grievences ?

The next Question: Then are they Laws contrary to the "Congress shall make NO Law respecting" command of the First Amendment mandate I invoked, is Void, and May NOT be inforced to oppress the Privilege of the writs of habeas corpus and its' swift relief as it existed in 1791 ?

NO means NO! To say the command "Congress shall make NO Law respecting" the peoples right to petition is open to interpretation is like the fraternity who

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CARDTOONS, L.C., an Oklahoma Limited Liability Company, Plaintiff - Appellant, vs. MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION, an unincorporated association, Defendant - Appellee.
UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
208 F.3d 885; 2000 U.S. App. LEXIS 6427; 54 U.S.P.Q.2D (BNA) 1353; 2000 Colo. J. C.A.R. 1914
No. 98-5061
April 7, 2000, Filed

II. *Right to Petition*

We must now determine whether prelitigation threats communicated solely between private parties are afforded immunity from suit by the right to petition guaranteed by the First Amendment. We hold that they are not.

The First Amendment states: "Congress shall make no law respecting . . . the right of the people . . . to petition the Government for a redress of grievances." The right to petition "is implicit in 'the very idea of government, republican in form.'" *McDonald v. Smith*, 472 U.S. 479, 482, 86 L. Ed. 2d 384, 105 S. Ct. 2787 (1985) (quoting *United States v. Cruikshank*, 92 U.S. 542, 552, 23 L. Ed. 588 (1876)). "Certainly the right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition." *California Motor*, 404 U.S. at 510; *see also City of Del City*, 179 F.3d at 887.

However, the right to petition is not an absolute protection from liability. In *McDonald*, petitioner wrote a letter to President Reagan accusing respondent of fraud, blackmail, extortion, and the violation of various individuals' civil rights. Respondent was being considered for the position of United States Attorney but was not appointed. He brought a libel suit against petitioner, who claimed that the right to petition gave him absolute immunity in his statements to the president. The Supreme Court disagreed.

> To accept petitioner's claim of absolute immunity would elevate the Petition Clause to special First Amendment status. The Petition Clause, however, was inspired by the same ideals of liberty and democracy that gave us the freedoms to speak, publish, and assemble. These First Amendment rights are inseparable, and there is no sound basis for granting greater constitutional protection to statements made in a petition to the President than other First Amendment expressions. *McDonald*, 472 U.S. at 485 (citations omitted). The Court affirmed the lower courts in allowing the libel action to proceed. "The right to petition is guaranteed; the right to commit libel with impunity is not." *Id. See also City of Del City*, 179 F.3d at 889 (holding that right to petition is not absolute, and in state employment context, employee must demonstrate that petition for which he was fired involved matter of public concern).

This Mandate is missing the adverb-peaceably for the infinite verb - to petition.

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CONSTITUTION OF THE UNITED STATES

AMENDMENTS

AMENDMENT 1

Religious and political freedom.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Congress Shall Make No Law Respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the Right of the People Peaceably to assemble, and To Petition the Government for a redress of grievances.

or as 5 clear and unambiguous sentences;
Congress Shall Make No Law respecting an establishment of Religion or prohibiting free exercise thereof.
Congress Shall Make No Law abridging the freedom of speech.
Congress Shall Make No Law abridging the freedom of the press.
Congress Shall Make No Law respecting the right of the people peaceably to assemble.
Congress Shall Make No Law respecting the right of the people peaceably to petition the government for a redress of Grievances.

2nd ½ Sentencing + Motion to take back plea 4/24/03 Pg 19 of 22

THE DEFENDANT: WHETHER I HAD COMPETENT COUNSEL?

THE COURT: YES.

THE DEFENDANT: OKAY. THE WAY I UNDERSTAND IT, I'M SUPPOSED TO HAVE A LAWYER WHO IS SUPPOSED TO LOOK AFTER MY INTERESTS FROM NOT JUST MY -- ARGUING MY, WHAT DO YOU CALL IT, "MY CONSTITUTIONAL RIGHTS," NOT JUST TO ADVOCATE ON MY BEHALF.

SHE DID NOT EVER GO, FROM THE VERY FIRST DAY, VERY FIRST DAY I ASKED HER, I SAID, MAN, THEY DIDN'T SERVE ME THE WARRANT, AND, YOU KNOW, AND CAME UP WITH ALL THIS STUFF.

AND SHE KEPT SAYING, THERE'S NO SUCH THING. THEY DON'T HAVE TO SERVE THE WARRANT, IF THEY DON'T WANT TO.

THE COURT: ALL RIGHT. STOP RIGHT THERE.

SHE DIDN'T TAKE UP YOUR ARGUMENT OR CHAMPION THE CAUSE THAT THEY DIDN'T SERVE YOU WITH A WARRANT. THAT'S ONE THING. One is all it Takes!

WHAT ELSE?

THE DEFENDANT: THAT THE WARRANT WASN'T IN THE CORRECT JURISDICTION.

SHE DID NOT -- I KEPT TELLING HER OVER AND OVER, I WANTED TO TAKE IT TO TRIAL, AND SHE KEPT FORCING ME INTO TAKING A GUILTY PLEA.

THE COURT: WAIT A MINUTE NOW. STOP.

WHAT DID YOU WANT TO TAKE TO TRIAL? THESE TWO CHARGES: PRODUCTION OF CHILD PORNOGRAPHY --

says, "NO means Yes! Yes means Anal!" When a girl says, "NO! I do not want to have sex!" it is NOT open to interpretation. This is the same with "Congress shall make NO LAW respecting ... the Right of the People peaceably ... to petition the government for a Redress of grievances." NO STILL Means NO! IT is NOT open to interpretation. But then the court has always known that. That is why it is called complicity.

Please NOTE! The habeas Corpus is a writ and the 2241 is a Law just as the Coram nobis is a writ and the 2255 is a Law. The writ of habeas Corpus is a basic constitutional right. Thomas Jefferson was clear in his writings that the writ of habeas corpus should not be abolished even in time of war. The First Amendment mandate I invoked Voided the power of Congress in Article 1, Section 9, Clause 2, "unless when in cases of rebellion or invasion the public safety may require it."

As of 1791 "Congress shall make no law respecting" nor shall any department inforce, any law that is made that opresses our Right to a Full and Fair Redress of our grievences.

Page 19 of 22 is where my second lawyer, Andy Savage, refused aid me to prove William Crews commited perjury to get the warrant. I had not been sentenced yet, Judge Duffy says "All right. Stop right there. She didn't take up your argument or Champion the cause that they did not serve you

with a warrant. Thats one Thing." There were a dozen things my lawyer refused to do. But that is the second Judge to rule my lawyer Ann Walsh was ineffective. Judge Duffy then sentences me without the protection of a Lawyer to 2 years 7 months more because I refused to be Raped of my constitutionally protected rights. I have never stoped filing grievences and I have never had Redress. Only the courts complicitly cover up the Truth.

Nothing yet - on the record shows Andrea was 20 years old working at La Petit Day Care all day while she sat all night over her friends house collecting child porn. Nothing in the record shows the Truth of what really happened even though the government had all the evidence to prove the Truth from the beginning.

Now we are back to the ongoing complicity or enabling of an ongoing conspiracy to oppress the Right of the People peaceably to petition the government for a Redress of grievences, and the Department of Justice, that is you, using this conspiracy to cover up the truth to avail itself to the fruits of this conspiracy.

On Mon., March 18Th 2013, I shall file many petitions including, "I Grieve the Ongoing conspiracy against the First Amendment to Facilitate an ongoing conspiracy of Molicious Prosecution", "I Challenge all Laws Named and Unnamed as Unconstitutional and demand as of Right Redress of each as presented in USA vs. Butler, 297 US 1", "Petition for Preliminary Injunction Relief under

28 USC § 1657." This petition ask for the Department of Justice to issue a preliminary Injunction Relief to stop the sexual regestry and probation until my challenge and grievences are Redressed. You just answered a challenge. How long did it take you? You took an Oath to protect these rights from oppression.

I shall post thousands of pages on the internet to show the ongoing conspiracy of oppression of Redress and the ongoing conspiracy to oppress the Truth.

This petition should remove all Probable Deniability that you and any one who reads this, Know of an ongoing domestic conspiracy to oppress this First Amendment Right and my grievence that I have been unlawfully imprisoned while the Department of Justice covers up it was Andrea's (Victom A) tapes and Party.

I again Petition you Mr. Simmons, as a representative under Oath of the Department of Justice, and all who reads this, to Honor your Oath and Duty to defend the integrity of the Constitution by meeting me in the clerks office on Mon., March 18Th and demand I be given a Full and Fair Redress on the Record of all my Petitions before you avail yourself to the unlawful fruits of this conspiracy.

Most Sincerely,
Theodore Wagner
Political Prisoner
POBox 9000
Seagoville, Tx 75159

I did give to the Mailroom Officer on Mon., Feb. 11Th 2013
Theodore Wagner